



American Civil Liberties Union
of Montana

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EXHIBIT 10
DATE 2-13-2009
HB HB 473

FEBRUARY 13, 2009

For the record, I am Scott Crichton, Executive Director of the American Civil Liberties Union of Montana. The ACLU is a non-partisan membership based organization with some 2,000 households in Montana counted among our membership. We are an affiliate of the national ACLU which has some 550,000 members. ACLU's mission is to defend the Constitution and the Bill of Rights.

"It is long past time that we recognize the failure of drug prohibition. Voters are ahead of elected officials on this issue. In more than a dozen states, the people have voted to allow the use of marijuana for medical purposes or even to decriminalize marijuana. Marijuana outpolled Obama in Michigan and Massachusetts this past election." David Boaz, Editor, Cato Policy Report.

ACLU-MT opposes HB 473 for several key reasons:

First, HB 473 proposes to treat the state's medical marijuana patients in a way unlike any other type of patient who receives any other type of medication recommended or prescribed by a Montana physician. No person with a past drug felony is forbidden to receive any other prescription medication; and no one receiving a medication has ever been barred for life from receiving it if convicted of a drug felony at the time. But HB 473 proposes to do this only to medical marijuana patients, and in this way is unprecedented and seems clearly unconstitutional to us. HB 473 makes these strict and unprecedented judgments without any regard to the specifics of a person's medical condition or previous criminal record.

HB 473 also proposes a radical and similarly unprecedented procedure if a bona fide medical marijuana patient ever is even suspected of being in violation of the law's limits on plant and medicine possession. Under current law, such a patient already may be arrested and prosecuted for violating the medical marijuana law, and only if the patient is found guilty would any punishment ensue. But under HB

473, the patient would lose his or her registration status immediately, long before any trial or conviction. Further, the patient would lose the right to self-defense under the terms and conditions of the state's medical marijuana law and would instead be vulnerable under non-medical criminal drug statutes. This, again, is also unprecedented and in violation of the spirit, certainly, of the decision Montanans made with a 62% vote in 2004.

Finally, HB 473 threatens physicians in a way that is completely unnecessary and that also contradicts the voting public's decision. It is important to keep in mind that physicians already are subject to state and federal laws and regulations that forbid negligence, fraud and the like. Physicians already are subject to procedures that ensue when such violations are suspected. But HB 473 would impose a new threat that strangely would require physicians not only to act in a professional manner as regards a patient's medical condition and medical welfare, but also to know fully and accurately all relevant information about a patient's legal circumstances. This is not a job any other law or regulation imposes on physicians.

We think the reasons to vote No on HB 473 are clear and persuasive, and we hope and trust that on careful consideration, you will agree with our opposition.